

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FEBRUARY 6, 2008

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **February 6, 2008** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Acting Chief Executive Joe Lee.

ROLL CALL

9 present, 1 presiding, 2 absent. Commissioner Moodry and O'Leary were excused.

PRAYER

Commissioner Frasz led the commissioners in prayer.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JANUARY 23, 2008

It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a unanimous verbal vote to approve the minutes of the Regular Meeting of January 23, 2008.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

None

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

Acting Chief Executive Lee reported that Chief Executive Babb and Commissioner O'Leary are still in Washington D.C. We hope they will be able to garner some money for some infrastructure improvements in our community which are so badly needed.

We've received our new aerial ladder truck. Jeff Miller encourages all the commissioners to come down and see it. The two new pumper trucks will be

placed in service on Friday, one in the uptown station and one in the downtown station. With the new fire equipment that we have, it should serve this community well over the next few years.

SECTION I

PUBLIC HEARING

FOR THE PURPOSE TO SOLICIT COMMENTS REGARDING AN AMENDMENT TO THE FY 07-08 BUTTE-SILVER BOW BUDGET FOR UNANTICIPATED REVENUES FOR THE ALUMNI COLISEUM IMPROVEMENT FUND. (Communication No. 08-48 being held in Committee of the Whole) Proof of publication was noted and placed on file.

Jon Sesso, Planning Director, gave the staff report. This was a project that was started in 1997 and then executed between 1997 and 2002. When we built the Copper Mountain recreational area there was public sentiment that we might choose to build a brand-new minor league baseball stadium in the area where the Copper Mountain Park is today. After research on that proposal we found that we were going to have to spend a lot more of the money that was earmarked to build the multi-dimensional park on the baseball stadium than would allow us to build some of the other facilities. As a compromise measure we allocated some of the funds that were earmarked to build the Copper Mountain Recreational Park to improvements at Alumni Coliseum. We earmarked \$200,000 for that purpose and we did make some significant improvements at Alumni Coliseum. We brought in major league dirt for the infield and the baselines. We changed the drainage. We made some improvements in the stands and some improvements to the fencing. We did not spend all of the \$200,000. We had saved approximately \$62,000 and put that into a trust. They are contracting with a Veteran stadium in Philadelphia to get 230 seats before they tear down Veteran Stadium and place those in our Alumni Stadium. They want to do changes and improvements to the lighting facilities. We now have to transfer the dollars from the trust fund to an active expenditure fund and then proceed with the improvements. Any dollars left over they will be re-programmed for next year or put back in the trust.

Acting Chief Executive Lee opened the public hearing at 7:40 and called for any proponents. On the third and final call there being none he called for any opponent. Again there was no response so he called the public hearing closed at 7:41 PM.

SECTION II

INVITATION FOR BIDS

SEALED BIDS FOR SUPPLYING THREE IDENTICAL VEHICLE BRIDGES FOR THOMPSON PARK. (Communication No. 08-85) Proof of publication was noted and placed on file.

It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a unanimous verbal vote to separate Section II into Section two

separate parts. One being Section II, Sealed Bids for Supplying Three Identical Vehicle Bridges and Section II-A being Sealed Bids for supplying 2150 Asphalt.

John VanDaveer, Director of the Public Works Department, opened the following bids:

1. Central Pre Mix, Spokane	North Bridge	\$45,189.00
	South Bridge	\$45,189.00
	Lion's Den Bridge	\$45,189.00
	Total	\$135,567.00
2. Rosco Bridge, Missoula	North Bridge	\$44,000.00
	South Bridge	\$44,000.00
	Lion's Den Bridge	\$44,000.00
	Total	\$132,000.00
3. Cretex Concrete Products	North Bridge	\$49,185.00
	South Bridge	49,185.00
	Lion's Den Bridge	\$49,185.00
	Total	\$149,455.00

It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried with a unanimous verbal vote to refer the bids to the Public Works Department for review and report back.

SECTION II-A INVITATION FOR BIDS

SEALED BIDS FOR SUPPLYING 2150 ASPHALT. (Communication No. 08-85) Proof of publication was noted and placed on file

John VanDaveer, Public Works Department Director, opened the following bids:

1. Mt. Refining Co., Gt. Falls	120/150 Penetration Grade	\$357.25/ton
		Total \$357,250.00
	CRS-SP Cationic Emulsified	\$397.50/ton
		Total \$79,500.00
	MC-800	\$565.00/ton
		Total \$228,250.00
2. Sem Materials, Blgs.	CRS-2P Cationic Emulsified	\$403.00/ton
		Total \$80,600.00

It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried with a unanimous verbal vote to refer the bids to the Public Works Department for review and report back to council.

Another bid was opened which was a bid for the bridges. It is shown above under Section II.

It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried with a unanimous verbal vote to reopen Section II, Invitation for Bids for the Three Identical Bridges.

SECTION III

CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 - 3. JUDICIARY COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. COMMUNICATIONS

Before entertaining a motion on the Consent Agenda, Acting Chief Executive Lee called for any “friendly amendments” or segregations. Commissioner Shaw a “friendly amendment” on Communication 08-66 and Communication No. 08-67. They are both requests for budget transfers. The dates are incorrect. They showed 07 dates. She talked to Geneta and she agreed to have it changed to 08. Also another Communication No. 08-68 a budget transfer from the MIS Department. The date was wrong. It showed October 15, 2007. It should have been January 23, 2008. A “friendly amendment” in the Judiciary Committee Meeting Report, Section I, II and III Council Bill No. 08-1, Council Bill 08-2 and Council Bill 08-3. All three have the recommendation to Place on second reading and passed. She wants to remove “and passed”. Commissioner Frasz made a “friendly amendment” to The Public Works Committee Meeting Report, Section V. Recommendation should read that Committee recommends that Communication No. 08-56 be held in abeyance. Public Works will conduct a study and report back to the Public Works Committee. Commissioner Coleman segregated Section VII, Communication No. 08-41.

It was moved by Commissioner Coleman, seconded by Commissioner Fay to approve the Consent Agenda, Section A, Items 1 through 4 with the friendly amendments, segregating Section VII of the Committee of the Whole Report Report, Communication No. 08-41 and Section B, Items 1 through 37. The motion passed with a unanimous verbal vote.

Segregation of Communication No. 08-71 in the Committee of the Whole Meeting Report

John P. Walsh, Sheriff, requesting time on the 2/6/08 agenda for confirmation of Joshua Stearns as a permanent member of the Butte-Silver Bow Law Enforcement Department.

Sheriff Walsh introduced Joshua Stearns to the Council and gave his background.

It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a unanimous verbal vote to approve Communication No. 08-41 in the confirmation of Joshua Stearns as a permanent member of the Butte-Silver Bow Law Enforcement.

**SECTION IV ORDINANCES AND RESOLUTIONS
REFERRED TO JUDICIARY**

1. COUNCIL RESOLUTION NO. 08-5

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE UNITED STATES DEPARTMENT OF JUSTICE TO THE CITY AND COUNTY OF BUTTE-SILVER BOW TO BE EXPENDED ON BULLETPROOF VESTS FOR LAW ENFORCEMENT OFFICERS PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION V ORDINANCES AND RESOLUTIONS –
SECOND READING**

1. COUNCIL BILL NO. 08-1
ORDINANCE NO. 08-1

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 195 AND CHAPTER 15.10 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "FIRE CODE" AND AMENDING SECTION 15.10.060, B-SB MC; RESTRICTING THE USE AND DISCHARGE OF FIREWORKS TO THE SAME PERIODS WHEN FIREWORKS CAN BE SOLD IN THE STATE OF MONTANA; PROVIDING FOR EXCEPTIONS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a**

roll call vote of 5 yeas, 4 nays, 1 presiding and 2 absent to place Council Bill No. 08-1, Ordinance No. 08-1 on second reading and passed having been deemed fully read at length. Commissioners Sheehy, Mulcahy, Foley and Coleman voted nay.

**2. COUNCIL BILL NO. 08-2
ORDINANCE NO. 08-2**

AN ORDINANCE AMENDING SUBSECTION 9.01 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SECTION 10.32.010(I) OF THE BUTTE-SILVER BOW MUNICIPAL COD (B-SB MC) ENTITLED "STOP SIGNS"; PROVIDING THAT TRAFFIC PROCEEDING ALONG IRON STREET SHALL STOP BEFORE ENTERING THE INTERSECTION OF IRON STREET AND NEVADA STREET AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a roll call vote of 9 yeas and 0 nays to place Council Bill No. 08-2, Ordinance No. 08-2 on second reading and passed having been deemed fully read at length.

**3. COUNCIL BILL NO. 08-3
ORDINANCE NO. 08-3**

A RESOLUTION AMENDING BUTTE-SILVER BOW ORDINANCE NO. 345 AND CHAPTER 2.20 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "LAW ENFORCEMENT DEPARTMENT"; AMENDING SECTIONS 2.20.280, 2.20.290 AND 2.20.300, B-SB MC; CHANGING THE DIVISIONS IN THE LAW ENFORCEMENT DEPARTMENT TO DETENTION, OPERATIONS AND INVESTIGATION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a roll call vote of 9 yeas, 1 presiding, 2 absent and 0 nays to place Council Bill No. 08-3, Ordinance No. 08-3 on second reading and passed having been deemed fully read at length.

**SECTION VI ORDINANCES AND RESOLUTIONS -
FINAL READING**

1. COUNCIL RESOLUTION NO. 08-1

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW LAW ENFORCEMENT DEPARTMENT FROM THE MONTANA DEPARTMENT OF TRANSPORTATION TO PURCHASE TWO FLHTP HARLEY

DAVIDSON MOTORCYCLES TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a roll call vote of 9 yeas, 0 nays, 1 presiding and 2 absent to place Council Resolution No. 08-1 on final reading and passed having been deemed fully read at length.

2. COUNCIL RESOLUTION NO. 08-2

RESOLUTION RELATING TO FINANCING OF CERTAIN PROPOSED PROJECTS; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a roll call vote of 9 yeas, 0 nays, 1 presiding and 2 absent to place Council Resolution No. 08-2 on final reading and passed having been deemed fully read at length

3. COUNCIL RESOLUTION NO. 08-4

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS A PORTION OF THE LATE ACQUISITION LODE, MINERAL SURVEY NO.497 AND A PORTION OF THE WOOLMAN LODE, MINERAL SURVEY NO. 546, ALL LOCATED IN SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a roll call vote of 9 yeas, 0 nays, 1 presiding, and 2 absent to place Council Resolution No. 08-4 on final reading and passed having been deemed fully read at length.

SECTION VII

**ORDINANCES AND RESOLUTIONS
FOR SUSPENSION OF THE RULES**

1. COUNCIL RESOLUTION NO. 08-6

Commissioner Coleman moved for suspension of the Rules for the purpose of Passing Council Resolution No. 08-6 by waiving Subsection 7 of the Rule XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for Advanced Passage without reference to the Judiciary Committee. The motion was seconded by Commissioner Fay and carried by a roll call vote of 9 yeas, 0 nays, 1 presiding and 2 absent.

1. COUNCIL RESOLUTION NO. 08-6

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY PARTICULARLY DESCRIBED AS LOT 3 IN THE SILICON MOUNTAIN MINOR SUBDIVISION LOCATED IN SECTION 24, TOWNSHIP 3 NORTH, RANGE 9 WEST, P.M.M., BUTTE-SILVER BOW COUNTY, MONTANA, CONSISTING OF 25.00 ACRES AND MORE PARTICULARLY DESCRIBED ON CERTIFICATE OF SURVEY NO. 264.2 FOR THE PURPOSE OF ECONOMIC DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a roll call vote of 9 yeas, 0 nays, 1 presiding and 2 absent to place Council Resolution No. 08-6 on final reading and passing having been deemed fully read at length.**

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner Coleman, seconded by Commissioner Fay and carried by a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 8:25 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER